

# Senate Bill 95

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## 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**.

Requires certain securities professionals to report suspected financial exploitation of elderly, disabled or vulnerable individual to Department of Consumer and Business Services and Department of Human Services.

Punishes failure to report by maximum of \$2,000 fine.

Permits certain securities professionals to report suspected financial exploitation to third parties previously authorized to receive financial information about suspected victim.

Permits broker-dealers and state investment advisors to delay disbursements in order to investigate suspected financial exploitation.

## A BILL FOR AN ACT

Relating to reporting of suspected financial abuse.

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

### **SECTION 1. As used in sections 1 to 9 of this 2017 Act:**

(1) **"Broker-dealer" has the meaning given that term in ORS 59.015.**

(2) **"Eligible adult" means an individual who is:**

(a) **Sixty-five years of age or older;**

(b) **A person with a disability as defined in ORS 124.005; or**

(c) **A vulnerable person as defined in ORS 124.100.**

(3) **"Financial exploitation" means:**

(a) **The wrongful or unauthorized taking, withholding, appropriation or use of money, assets or other property of another person; or**

(b) **Any act or omission by a person, including through the use of a power of attorney, guardianship or conservatorship of another person, in order to:**

(A) **Obtain control, through deception, intimidation or undue influence, over money, assets or other property of another person in order to deprive the person of the ownership, use, benefit or possession of the money, assets or other property; or**

(B) **Convert money, assets or other property of another person in order to deprive the person of the ownership, use, benefit or possession of the money, assets or other property.**

(4) **"Investment adviser representative" has the meaning given that term in ORS 59.015.**

(5) **"Qualified individual" means an individual who is:**

(a) **A salesperson;**

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

(c) **A person who serves in a supervisory, compliance or legal capacity for a broker-dealer or state investment adviser.**

(6) **"Salesperson" has the meaning given that term in ORS 59.015.**

(7) **"State investment adviser" has the meaning given that term in ORS 59.015.**

**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       **SECTION 2.** (1) A qualified individual who has reasonable cause to believe that financial  
2 exploitation of an eligible adult with whom the qualified individual comes into contact has  
3 occurred, has been attempted or is being attempted shall promptly notify, orally or in writ-  
4 ing, the Department of Consumer and Business Services and the Department of Human  
5 Services.

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

8       (a) The identity and address of the eligible adult;

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

11       (c) The nature and extent of the suspected or attempted financial exploitation.

12       **SECTION 3.** A qualified individual who, in good faith and exercising reasonable care,  
13 discloses information pursuant to section 2 of this 2017 Act is not liable under state law for  
14 the disclosure or for any failure to notify the eligible adult of the disclosure.

15       **SECTION 4.** If a qualified individual has reasonable cause to believe that financial ex-  
16 ploitation of an eligible adult with whom the qualified individual comes into contact has oc-  
17 curred, has been attempted or is being attempted, the qualified individual may notify any  
18 third party previously designated by the eligible adult to receive information from the quali-  
19 fied individual regarding the eligible adult. Disclosure may not be made under this section  
20 to any third party that is suspected of actual or attempted financial exploitation or other  
21 abuse of the eligible adult.

22       **SECTION 5.** A qualified individual who, in good faith and exercising reasonable care,  
23 discloses information pursuant to section 4 of this 2017 Act is not liable under state law for  
24 the disclosure or for any failure to notify the eligible adult of the disclosure.

25       **SECTION 6.** (1) A broker-dealer or state investment adviser may delay a disbursement  
26 from an account of an eligible adult or an account on which an eligible adult is a beneficiary  
27 if:

28       (a) The broker-dealer, the state investment adviser or a qualified individual reasonably  
29 believes that the requested disbursement may result in financial exploitation of an eligible  
30 adult; and

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

32       (A) Within two business days of the request for disbursement, provides written notifica-  
33 tion of the delay and the reason for the delay to all parties authorized to transact business  
34 on the account, except to any party that is suspected to have engaged in actual or attempted  
35 financial exploitation of the eligible adult;

36       (B) Within two business days of the request for disbursement, notifies the Department  
37 of Consumer and Business Services and the Department of Human Services of the delay and  
38 the reason for the delay; and

39       (C) Conducts an internal review of the suspected financial exploitation and reports the  
40 results of the review to the Department of Consumer and Business Services and the De-  
41 partment of Human Services within seven business days of the request for disbursement.

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

43       (a) Fifteen business days after the date on which the broker-dealer or state investment  
44 adviser first delayed disbursement of the funds; or

45       (b) The date on which a determination is made by the broker-dealer or state investment

1 **adviser that the disbursement will not result in financial exploitation of the eligible adult.**

2 **(3) Notwithstanding subsection (2) of this section, upon request of the Department of**  
 3 **Consumer and Business Services or the Department of Human Services, a delay of a dis-**  
 4 **bursement under this section may extend beyond 15 business days after the date on which**  
 5 **the broker-dealer or state investment adviser first delayed disbursement of the funds, but**  
 6 **not beyond the earliest of:**

7 **(a) Twenty-five business days after the date on which the broker-dealer or state invest-**  
 8 **ment adviser first delayed disbursement of the funds;**

9 **(b) The date on which an order terminating the delay is entered by a court of competent**  
 10 **jurisdiction; or**

11 **(c) The date on which an order terminating the delay is made by the agency or agencies**  
 12 **that requested the delay.**

13 **(4) The Department of Consumer and Business Services, the Department of Human Ser-**  
 14 **vices, the broker-dealer or state investment adviser that initiated a delay of a disbursement**  
 15 **under this section or any other interested party may petition a court of competent jurisdic-**  
 16 **tion for an order delaying or enjoining a disbursement of funds or for other protective relief**  
 17 **on the grounds that financial exploitation of an eligible adult is otherwise likely to occur.**

18 **SECTION 7. A broker-dealer or state investment adviser that, in good faith and exercis-**  
 19 **ing reasonable care, delays a disbursement pursuant to section 6 of this 2017 Act is not liable**  
 20 **under state law for the delay.**

21 **SECTION 8. (1) Upon request of the Department of Consumer and Business Services, the**  
 22 **Department of Human Services or a law enforcement agency, a broker-dealer or state in-**  
 23 **vestment adviser shall provide copies of records related to any suspected financial exploita-**  
 24 **tion of an eligible adult to the requester. The records may include historical records if**  
 25 **relevant to suspected financial exploitation of an eligible adult.**

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

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

31 **SECTION 9. Violation of section 2 of this 2017 Act is a Class A violation.**

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